

Matthew J. Kalmanson, OSB No. 041280

Email: mjk@hartwagner.com

HART WAGNER LLP

1000 SW Broadway, Twentieth Floor

Portland, Oregon 97205

Telephone: (503) 222-4499

Facsimile: (503) 222-2301

David A. Baay, Texas Bar No. 24027050*

Email: davidbaay@eversheds-sutherland.com

Garrett A. Gibson, Texas Bar No. 24069024*

Email: garrettgibson@eversheds-sutherland.com

Eversheds Sutherland (US) LLP

1001 Fannin Street, Suite 3700

Houston, Texas 77002

Telephone: (713) 470-6100

Facsimile: (713) 654-1301

Lawrence A. Dany, New York Bar No. 4404372*

Email: larrydany@eversheds-sutherland.com

Eversheds Sutherland (US) LLP

The Grace Building, 40th Floor

1114 Avenue of the Americas

New York, NY 10036-7703

Telephone: (212) 389-5038

Facsimile: (212) 389-5099

**Pro hac applications forthcoming*

Of Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORLTAND DIVISION

THE H.D.D. COMPANY, INC., A
CORPORATION OF OREGON, an Oregon
corporation,

Plaintiff,

v.

SNC-LAVALIN CONSTRUCTORS INC., a

Columbia County Circuit Court
Case No. 18CV10235

No. 3:18-cv-725

**DEFENDANTS' NOTICE OF
REMOVAL OF CIVIL ACTION**

HART WAGNER LLP
1000 S.W. Broadway, Twentieth Floor
Portland, Oregon 97205
Telephone: (503) 222-4499
Facsimile: (503) 222-2301

Delaware corporation; and NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, a Pennsylvania corporation, Bond No. 346-142,

Defendants.

To the Clerk of the Court:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants SNC-Lavalin Constructors Inc. (“SNC-Lavalin”) and National Union Fire Insurance Fire Company of Pittsburgh (“NUFIC”) (collectively, the “Defendants”) hereby remove to this Court the case now pending in Columbia County Circuit Court as *The H.D.D. Company, Inc., A Corporation of Oregon, an Oregon corporation, v. SNC-Lavalin Constructors Inc., a Delaware corporation; and National Union Fire Insurance Company of Pittsburgh, PA, a Pennsylvania corporation, Bond No. 346-142*, Case No. 18CV10235, pursuant to the diversity jurisdiction statute, 28 U.S.C. § 1332. As grounds for removal, Defendants state as follows:

1. This is a civil action for foreclosure of a construction lien and breach of contract arising out of a project known as the North Mist Expansion project, located in Columbia County, Oregon. SNC-Lavalin is the general contractor on the project. The H.D.D. Company, Inc. (“HDD”) was a subcontractor. NUFIC is the surety on a bond issued to SNC-Lavalin.

2. On March 26, 2018, HDD filed a complaint against SNC-Lavalin and NUFIC in Cause No. 18CV10235, in the Circuit Court of the State of Oregon for the County of Columbia (“State Court action”).

3. The United States District Court for the District of Oregon has jurisdiction of this dispute by virtue of diversity of citizenship of the parties.

///

4. At all relevant times and on March 26, 2018, when the State Court complaint was filed, plaintiff HDD was an Oregon corporation, and upon information and belief, its principal place of business is in California.

5. At all relevant times and on March 26, 2018, when the State Court complaint was filed, defendant SNC-Lavalin was a Delaware corporation with its principal place of business in Washington.

6. At all relevant times and on March 26, 2018, when the State Court complaint was filed, defendant NUFIC was an Pennsylvania corporation with its principal place of business in New York.

6. The matter in controversy exceeds \$75,000. HDD's Complaint requests over \$5 million in damages. *See* Complaint, ¶ 13.

7. Because there is complete diversity between Plaintiff and Defendants and the amount in controversy exceeds \$75,000, this Court has jurisdiction per 28 U.S.C. §§ 1332, 1441.

8. All Defendants in the State Court action join in the removal to this Court.

8. The Complaint was filed in the State Court action on March 26, 2018; therefore, this removal is timely. 28 U.S.C. § 1446(b)(2)(B).

9. Attached to this notice of removal is a copy of the case file of the State Court action.

10. Defendants will give written notice of the filing of this Notice to HDD and the state court as required by 28 U.S.C. § 1446(d).

11. For the reasons stated above, Defendants respectfully request that the Court take jurisdiction over this matter and proceed as if the Plaintiff had originally filed with the Court.

///

WHEREFORE, Defendants remove this civil action from the Circuit Court of the State of Oregon for the County of Columbia, and request that all further proceedings be conducted in this Court.

Respectfully submitted this 24th day of April, 2018.

HART WAGNER LLP

By: /s/ Matthew J. Kalmanson
Matthew J. Kalmanson, OSB No. 041280
mjk@hartwagner.com
Of Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of April, 2018, I served the foregoing **DEFENDANTS' NOTICE OF REMOVAL OF CIVIL ACTION** on the following party at the following address:

Dan Gragg
gragg@seifer-yeats.com
Tara M. Johnson
taraj@seifer-yeats.com
Andrew MacKendrick
amm@seifer-yeats.com
Seifer, Yeats, Zwierzynski & Gragg, LLP
121 SW Morrison, Suite 1025
Portland, OR 97204
Of Attorneys for Plaintiff

by electronic means through the Court's Case Management/Electronic Case File System, emailing, and mailing to them a true and correct copy thereof, certified by me as such, placed in a sealed envelope addressed to them at the address set forth above, and deposited in the U.S. Post Office at Portland, Oregon on said day with postage prepaid.

/s/ Matthew J. Kalmanson

Matthew J. Kalmanson, OSB No. 041280